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April 15, 2002

REDACTED – FOR PUBLIC INSPECTION

VIA ELECTRONIC FILING

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
445 12th Street, SW, Room TWB-204
Washington, DC 20554

Re: Application by Verizon New England Inc., et. al. To Provide In-Region, InterLATA Services In Vermont, CC Docket No. 02-7.

Dear Mr. Caton:

This letter and the attached Supplemental Declaration of Catherine E. Pitts respond to Verizon's April 10, 2002 ex parte letter regarding pricing issues in Vermont. For the most part, Verizon's 11th hour reply is a reprise of the same flawed arguments advanced by Verizon in its initial comments and reply comments. AT&T and WorldCom have already addressed those arguments.[1] And, as explained below, to the extent that Verizon's April 10 ex parte attempts to introduce new evidence, that evidence is either patently false or actually confirms the most egregious TELRIC violations identified by AT&T and others. Indeed, the new switching data provided by Verizon in its April 10 ex parte letter conclusively show that Verizon's switching rates do not reflect the switch discounts ordered by the VPSB and, therefore, Verizon's switching rates are inflated by a clear TELRIC error. And Verizon offers no substantive response to the record evidence, including Verizon's own concessions, that its Vermont DUF rates are not TELRIC-compliant.

[1] *See* AT&T Comments at 4-18; AT&T Reply Comments at 1-10; WorldCom Comments at 2-8; WorldCom Reply Comments at 2-6; AT&T March 26 ex parte Letter; WorldCom March 25 ex parte letter; WorldCom April 3 ex parte Letter.

Switch Investment. By disclosing for the first time in this proceeding the switch discount figure that it claims should have been applied to list switch prices, Verizon has now conclusively confirmed that its Vermont switching rates are inflated by a clear TELRIC error. The current Vermont switching rates are substantially higher than they would be if Verizon had properly implemented the VPSB's orders. *See* Pitts Supp. Decl. ¶¶ 2-4 (attached).

In its February 4, 2000 UNE order, the VPSB accepted the use of the SCIS model – which the VPSB admitted it had never seen[2] – to estimate switch material prices to be used for estimating Verizon's Vermont switching rates. However, the VPSB found that the switch material investment estimated by the SCIS model was substantially overstated because it failed to reflect the discounts that Verizon receives when it purchases new switches. *See VPSB Feb. 4, 2000 Order* at 90-91. Accordingly, the VPSB ordered Verizon to rerun the SCIS model based on the discounts that Verizon receives for new switches. *See id.* Verizon purported to do so and submitted new rates to the VPSB in a "compliance" filing. TheVPSB, without ever examining Verizon's new switch discount or any of the other inputs or assumptions used by Verizon in running the SCIS model, adopted Verizon's new switching rates. *See VPSB Aug. 23, 2000 Order*. In its April 10 ex parte letter, Verizon, for the first time, identifies the switch discount that it purportedly used to comply with the VPSB's orders. According to Verizon's ex parte letter, its compliance filing reflects an *** *** percent discount from switching list prices to estimate the price of new switches.

A&T has rerun the SCIS model belatedly submitted by Verizon in this proceeding using Verizon's newly-reported switch discount, and has found that it produces total switch investment that is *32 percent lower* than that reported by Verizon in its Vermont compliance filing. *See* Pitts Supp. Decl. ¶ 4. That means that if Verizon had implemented the switch discount – even without implementing the other change required by the VPSB, which should have further decreased Verizon's total switch investment[3] – Verizon's total switch investment would have been 32 percent lower than the figure that Verizon actually used to compute the rates that were adopted by the VPSC. *See id.* Thus, Verizon either never implemented the changes to its switch discounts as ordered by the VPSC, or Verizon manipulated other factors, unknown to the VPSB, to reduce or eliminate the impact of using the higher switch discount. *See id.* Either way, Verizon's April 10 ex parte confirms that there is no rational basis to declare Verizon's Vermont switching rates TELRIC compliant.[4]

The fact that Verizon's rates assume per line switch investment that is double the prices that are available for Nortel switches further confirms that Verizon's switching rates are substantially inflated. *See* Pitts Decl. ¶ 18. Although Verizon purportedly uses only Lucent switches in Vermont, competition among switch manufacturers ensures that Lucent switches

[2] *See VPSB Feb. 4, 2000 Order* at 23 (Verizon's "SCIS model [used to compute switching rates] . . . cannot be 'opened up' for examination by regulators and competitors").

[3] The only other input change ordered by the VPSC (*Feb. 4, 2000 Order* at 28) was an increase in the minutes over which Verizon's costs should be allocated. That change should have further decreased Verizon's per-minute costs.

[4] Verizon has still not filed the SCIS model and inputs that it used to generate the rates relied upon in its compliance filing. Rather, the SCIS model and inputs that Verizon disclosed in this proceeding was that which it initially filed with the VPSB and, therefore, does not reflect the changes ordered by the VPSB. *See* Pitts Supp. Decl. ¶ 4.

cannot cost twice as much as comparable Nortel switches. AT&T does not contend that Verizon should use Nortel switches in Vermont, but only that Verizon's assumed cost of Lucent switches cannot be reconciled with the comparable Nortel switch price evidence. *See AT&T March 26 Letter* at 5. Recognizing as much, Verizon now claims that Nortel switches are not, in fact, comparable to the Lucent switches it uses, and if it had used Nortel switches to compute switching costs, it would have been required to assume more switches per loop, or longer loops, thereby driving up the average switch and loop costs. *See VZ April 10 Letter* at 5. More specifically, Verizon asserts (with no supporting evidence) that while the "Lucent 5ESS remote switch functions as a full 5ESS switch when isolated from the host, and thus can complete all local calls and provide all services than can be provide by the host," the "Nortel DMS 100 remote switch . . . cannot provide all the functions of the switch." *See VZ April 10 Letter* at 5.

The only difference between Nortel and Lucent switches identified by Verizon, however, is that the Nortel DMS 100 remote switches purportedly cannot provide emergency services, whereas Lucent 5ESS switches can do so. That is false. According to Nortel's description of its DMS 100/200 switch remotes (attached hereto) its remote switches are capable of "Emergency Standalone service to continue local service even if the connections between the hose and remote are severed." That document also confirms that Nortel's remote switches are capable of handling from 20 up to 10,000 lines, which would allow Verizon the flexibility to economically serve rural areas in the same way as Lucent switches. And, similar to Lucent remotes, Nortel remotes can be up to 650 miles from the host. In short, there is no possible basis for assuming switch prices that are twice as high as the prices that the record evidence demonstrates are available.[5]

The rate inflation caused by these clear TELRIC errors is dramatic. AT&T has demonstrated that Verizon's Vermont switch investment exceeds that in New York by 66 percent, even though, according to the Commission's Synthesis Cost Model, Verizon's Vermont costs exceed those of New York by only 34 percent. *See* AT&T *March 26 Ex Parte Letter* at 5. Verizon responds that one would expect New York's rates to be higher than those in more rural Vermont. *See VZ April 10, 2002 Letter* at 5. But that is no response at all; AT&T's analysis uses the Commission's Synthesis Cost Model to account for those cost differences, and Verizon's Vermont rates greatly exceed its New York rates *after* adjusting for cost differences.

Nor can Verizon avoid this issue by claiming that it was not raised below. *See VPSB Feb. 4, 2000 Order* at 22 ("AT&T urges the Board to reject the SCIS model" because, among other things, "BellAtlantic's switch prices are not supported by appropriate documentation. The discounts that switch vendors offer a LEC differ depending on whether the work performed is simply an upgrade to an existing switch or the installation of an entirely new one. BAVT's cost study may recognize only the lesser savings associated with upgrades, rather than the deeper

[5] Verizon also claims that more of the Lucent switch investment is attributable to the per-minute rates and that more of the Nortel costs are attributable to the port. (Verizon appears to be referring to the dedicated line card technology used by Nortel switches for analog lines that can result in a higher port cost than Lucent switches.) But the problem here is overstated investment, and differing allocations of investment between usage and port rates obviously can do nothing to solve that problem. In any event, Verizon's assertion could only be true for switches serving analog lines. Verizon's switching cost study, however, is based on a network with virtually all fiber (non-analog) lines. (The VPSB did allow for a *deminimus* number of analog lines solely for the purpose of obtaining costs for such lines. But that would have little, if any, impact on Verizon's total switch investment.)

discounts which accompany a new installation. The TELRIC methodology requires that new installations be assumed").[6]

With regard to access to the SCIS model, Verizon ignores AT&T's actual claim – that the VPSB did not review Verizon's cost models and, therefore, could not have found them to be TELRIC-compliant – and restates AT&T's argument as a complaint that *AT&T* never had access to Verizon's cost models in the state proceeding. *See VZ April 10 Letter* at 3-4. Verizon then asserts that it would have made the SCIS model available to AT&T if only AT&T had requested it during the state proceeding. *See id.* There is, of course, no way to determine whether that statement is true (although AT&T was able to obtain the SCIS model in subsequent states only after prolonged discovery battles with Verizon). But whether AT&T could have obtained access to the SCIS model in the state proceeding is beside the point. Verizon has not disputed (nor could it) that the *VPSB* did not, in fact, have access to the SCIS models and, therefore, could not possibly have determined that Verizon complied with TELRIC or with the VPSB's own order. The Commission cannot rationally defer to a state finding that Verizon's switching cost models are TELRIC-compliant because there was no basis for any such finding. And, as explained above, with the revelation of the new switch discount that Verizon should have applied and the belated disclosure of its SCIS model, it is now clear, beyond doubt, that Verizon's switching rates are not TELRIC compliant.

DUF Rates: Verizon's April 10 ex parte confirms yet again that Verizon has no substantive response to the overwhelming record evidence that its DUF rates are not TELRIC compliant. Verizon's Vermont DUF rates are at least four times higher than they should be, and Verizon has conceded all of the relevant points, including the facts that its DUF processes are regional and that it takes much less time to process CLEC requests for usage than Verizon assumed in computing its Vermont DUF rates. *See AT&T March 26 Ex Parte Letter* at 4; Verizon March 18 Ex Parte Letter at 5 ("the estimate of the amount of time required to process a CLEC's request for usage is now shorter, resulting in lower costs"). Verizon therefore urges the Commission simply to ignore the obvious TELRIC violations because AT&T did not raise them below. New information may not *automatically* require rejection of a section 271 application, but reasoned decisionmaking plainly requires *some* limiting principles. And here, where the TELRIC errors and cost inflation are both massive and conceded, there can be no possible basis for ignoring them.

Busy Hour Assumptions. The April 10 ex parte's discussion of busy hour assumptions is inaccurate and misleading. Busy hour assumptions are necessary to convert switch investment figures to minute of use rates, and AT&T and WorldCom have demonstrated that Verizon's busy hour computations effectively assume that *no* calls take place on holidays or on weekends. As a result, *all* CLEC weekend/holiday – nearly a third of the year – is pure "gravy" over and above Verizon's actual forward-looking switching costs, which are designed to be recovered in full through business day traffic. Verizon responds with a patently misleading numerical example that misstates and misapplies the methodology used by Verizon's cost studies to compute the amount of traffic in Vermont.

[6] AT&T also raised the installation factor issue before the VPSB. *See Feb. 4, 2000 Order* at 22. Indeed, the fact that Verizon's installation factors were inflated by hopelessly outdated data was known as early as 1997. *Id.*

Verizon's example improperly assumes that Verizon's costs studies determine the percent of busy hour traffic based on the busiest day's traffic. In fact, Verizon divides total switch investment by the total peak minute demand to arrive at a peak period cost per minute. This peak period cost must be converted to a cost for any minute to develop a rate that is applied to all minutes at any time of the day or on any day of the week. Verizon does that by converting busy hour (not busy day) costs. And the days that contain the busiest hours' traffic are not necessarily the busiest days. Verizon's example, which starts with busy day traffic (100 minutes) is, therefore, flawed.[7] Indeed, Verizon did not even study the busy day traffic levels. *See* Michael J. Anglin's Amended Direct Testimony, Docket No. 5713 at 18.

Because Verizon has failed to address the myriad clear TELRIC errors that inflate its UNE rates, Verizon's application must be denied. Verizon bears the burden of proving that its Vermont rates comply with Checklist Item Two.

Benchmark Analysis. Lastly, Verizon again urges the Commission to ignore the clear TELRIC errors identified by AT&T and others on the basis of a "kitchen sink" comparison between New York and Vermont of the combined rates for all elements of the UNE platform. The Commission has never approved a section 271 application on the basis of such an approach, and, as AT&T demonstrated in its *March 26, 2002 Ex Parte Letter* (at 2-3), the Commission could not lawfully do so. Verizon claims that "[j]ust as [the Commission] looks at Verizon's 'overall' performance on its metrics to obtain a 'comprehensive picture' [when assessing Checklist Item 4 compliance], so to it may look at UNE rates overall." *VZ April 10 Ex Parte* at 10. But the very examples that Verizon cites confirm that the Commission has never aggregated loop and non-loop data in the performance area either. *See id.* (describing Commission overall review "of the various loop metrics"). Nor is the fact that margin analyses used to test compliance with the public interest requirement (and the checklist requirement of nondiscriminatory rates) often assess the profitability of UNE platform-based entry relevant to the benchmarking issue here. Obviously, all of the expected costs and revenues associated with UNE-P entry must be considered together to assess the profitability of that entry strategy. The purpose of benchmarking, on the other hand, is to assess whether claimed TELRIC violations can be ignored on the ground that the rates for the element in question can be shown (by comparison) to be within a reasonable TELRIC range. That shortcut can be used only when it satisfies the checklist item 2 requirement which is to show that rates are consistent with the Act's requirement of cost-based rates for requested elements. And that statutory requirement is that requested elements be cost-based, not that the combined rates for the aggregate of all elements reflect the cost of all elements. Indeed, Verizon's position would authorize benchmarking-based approval of rates that assigned *all* costs to loops and none to non-loop elements, and that approach plainly could not be reconciled with the statutory language.

[7] Verizon implies that it uses the exact same busy hour data it used for the SCIS inputs to derive its busy hour to total day ratio, but that is doubtful. The busy hour to total day "sampling data" that Verizon claims it used as the source is typically not derived from the same data at all. There is usually a mismatch in terms of vintage of the data (for example, in New York, Verizon used data from 1997 for its busy hour to total day factor, but used 2000 data trended to 2003 as inputs to SCIS). Verizon has not provided the supporting information for its busy hour to total day factor. The source cited by Verizon is listed only as "traffic sample."

Respectfully submitted,

/s/ David L. Lawson
David L. Lawson

cc:	Dorothy Attwood	Julie Saulnier
	Deena Shetler	Julie Veach
	Tamara Priess	Ann Berkowitz (Vz)
	Gary Remondino	

ATTACHMENT 1

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
Application by Verizon New England Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions), Verizon Global Networks Inc., and Verizon Select Services Inc. To Provide In-Region, Inter LATA Services in Vermont	)	**CC Docket No. 02-7**

SUPPLEMENTAL DECLARATION OF CATHERINE E. PITTS

I. QUALIFICATIONS

1. My name is Catherine E. Pitts (formerly Petzinger). I am a the same Catherine E. Pitts who filed testimony with AT&T's initial comments in this proceeding.

2. The purpose of my supplemental testimony is to further demonstrate that Verizon's total switch investment is substantially inflated above TELRIC levels because Verizon either failed to reflect the switch discounts ordered by the Vermont Public Service Commission ("VPSB"), or Verizon somehow improperly manipulated the SCIS model in other ways to offset the magnitude of the reductions that would have resulted if those discounts were properly applied.

3. In its February 4, 2000 UNE order, the VPSB accepted the use of the SCIS model to estimate switch material prices to be used for estimating Verizon's Vermont switching rates. However, the VPSB found that the switch material investment estimated by the SCIS model was substantially overstated because it failed to reflect the discounts that Verizon receives when it purchases new switches. *See VPSB Feb. 4, 2000 Order* at 90-91. Accordingly, the VPSB ordered Verizon to rerun the SCIS model based on the discounts that Verizon receives for new switches. *See id.* Verizon purported to do so and submitted new rates to the VPSB in a "compliance" filing. TheVPSB, without ever examining Verizon's new switch discount or any of the other inputs or assumptions used by Verizon in running the SCIS model, adopted Verizon's new switching rates. *See VPSB Aug. 23, 2000 Order*. In its April 10 ex parte letter, Verizon, for the first time, identifies the switch discount that it purportedly used to comply with the VPSB's orders. According to Verizon's ex parte letter, its compliance filing reflects an *** *** percent discount from switching list prices to estimate the price of new switches.

4. The SCIS model submitted by Verizon in this proceeding does not reflect this *** *** percent switch discount. Rather, the version of the SCIS cost model provided by Verizon in this proceeding appears to be the version of the model that Verizon initially filed with the VPSB before implementing the changes ordered by the VPSB. I have substituted the *** *** percent switch discount for the much lower switch discount contained in the SCIS cost model that Verizon

submitted in this proceeding. After making this change, I reran the SCIS model to generate the total switch investment based on the switch discount reported by Verizon. The results of that analysis show that using the *** *** switch discount in Verizon's Vermont SCIS cost model produces total switch investment that is *32 percent lower* than that reported by Verizon in its Vermont compliance filing. That means that if Verizon had implemented the switch discount it has reported to this Commission – even without implementing the other change required by the VPSB, which should have further decreased Verizon's total switch investment[1] – Verizon's total switch investment would have been 32 percent lower than the figure that Verizon actually used to compute the rates that were adopted by the VPSC. Thus, Verizon either never implemented the changes to its switch discounts as ordered by the VPSC, or Verizon manipulated other factors, unknown to the VPSB, to reduce the impact of using the higher switch discount.

I declare under penalty of perjury that the foregoing Declaration is true and correct.

/s/ Catherine E. Pitts
Catherine E. Pitts

Executed on: April 15, 2002

[1] The only other input change ordered by the VPSC (*Feb. 4, 2000 Order* at 28) was an increase in the minutes over which Verizon's costs should be allocated. That change should have further decreased Verizon's per-minute costs.

ATTACHMENT 2

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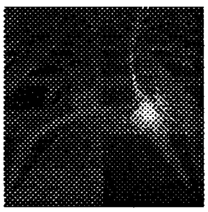

DMS Switch Remotes

DMS Switch Remotes extend your revenue services with intraswsitching and emergency standalone

The use of **Switch Remotes** and AccessNode platforms makes geographic distribution of advanced digital services very flexible and cost-effective. These solutions provide powerful platforms for digital integration, network simplification, exchange area consolidation, and penetration into new markets or territories.

• Features

Robust and efficient in either standalone or bi-directional ring configurations, these flexible remotes provide:

- **Intraswitching**, to save switch resources, by enabling calls that originate and terminate within the switch remote to connect without tying up links back to the switch, except during initial call setup.
- **Emergency Standalone** service to continue local call service even if the connections between the host and the switch are severed.

• Benefits

- These intelligent remotes extend high-demand services -- such as Centrex, CLASS/CMS, 1-Meg Modem, ISDN, and more -- as much as 650 miles away from the host office (over facilities supporting a roundtrip delay of 13 milliseconds or less).
- Cost-effective service delivery from 20 to 10,000 lines.
- In some cases, a remote can be migrated to a full DMS switching system as demand increases.
- Today, Nortel Networks offers the following switch remotes on the DMS-100/DMS-500 product lines:
  - Star Remote System - new small- and medium-size system with 1,152-line hub and 64 line modules.
  - Remote Switching Center (RSC-S) supports up to 6,400 lines or 480 trunks
  - Dual RSC-S supports more than 10,000 lines or 960 trunks

- Remote Line Concentrating Module (RLCM) extends DMS services for up to 640 subscribers
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